

**PLANNING COMMISSION MINUTES OF May 22, 2006**

**2006-0357 – BARK Kennel & Boarding** [Applicant] **August M Jr. and Linda J Hagemann Trustee** [Owner]: Application for a Use Permit on a 32,300 square foot site to allow long-term boarding and daycare services for up to 335 dogs and 50 cats and including ancillary retail services. The property is located at **180 North Wolfe Road** (near Central Expwy) in an M-S (Industrial & Service) Zoning District. (Negative Declaration) (APN: 205-43-023) GC

**Gerri Caruso**, Principal Planner, presented the staff report. She said staff considers the use appropriate for the area and recommends approval subject to the conditions of approval. She added that staff received a letter today, from a neighbor objecting to the use and that a copies of the letter have been provided on the dais. She said the author of the letter is in the audience and will speak during the public hearing.

**Comm. Klein** commented that the entrance on San Lazaro Avenue is closed off and asked staff to comment about the traffic flow for the proposed site. Ms. Caruso said there are three driveways for the site and the proposal is to keep two of them open. Comm. Klein asked about a discrepancy in the site address with one of the attachments referencing 180 N. Wolfe Road and the report referencing 170 N. Wolfe Road. Ms. Caruso said a revised notice was sent to the mailing group, but explained that both addresses are on the same lot confirming that 180 N. Wolfe Road is the correct building for the project. Comm. Klein asked for staff's opinion on leaving the external doors open during the daytime. Ms. Caruso said from the description provided by the applicant, staff was not aware that the roll up doors would be left open and staff's assessment is based on the doors being closed. She said the applicant is present at this hearing and has more information about the noise analysis.

**Comm. Babcock** confirmed that there are two buildings on the site, that this proposed use is for only one building, and asked what use is in the other building. Ms. Caruso said it is light industrial. Comm. Babcock confirmed with staff that the building with light industrial was the only buffer between the proposed site and the neighbor that opposes the proposed use. Comm. Babcock said she saw no mention in the report of an outdoor exercise area and said that the letter on the dais says pet owners can request periodic outdoor walks for their pets. Ms. Caruso said there is an indoor exercise area and clients can request their pets be walked on the surrounding streets. The kennel owners would be responsible for clean up. Comm. Babcock said she did not see noise issues addressed in the declaration. Ms. Caruso said the applicant provided information that noise readings were taken in a similar situation and the readings were below the maximum levels. Comm. Babcock asked if the noise levels could be measured at any similar businesses that are currently operating. Ms. Caruso said

there is a smaller kennel on Mathilda, but it would not provide an adequate comparison. Ms. Caruso said staff did not include the color photographs that came with the application and said that there are a number of indoor suites that are rooms with sliding glass doors that could mitigate some of the noise.

**Chair Hungerford** said that this site is in an M-S Industrial Service Zone and asked if this use is a permitted use or a conditional use. Ms. Caruso said it would be a conditional use. Chair Hungerford said the proposal for 335 dogs and 50 cats which sounds like a lot under one roof. He said the sound partitioned rooms could be helpful. He asked about other regulations for this type of facility. Ms. Caruso says the applicant operates a similar facility in the Sacramento area and that the applicant could address this question.

**Comm. Simons** asked what the allowable noise level would be at the lot line. Ms. Caruso that 75 decibels is allowed at the property line. Comm. Simons asked what the City would do if the noise levels were consistently in excess for a use that has been allowed. Ms. Caruso said the permit could be revoked if the noise levels exceed the allowable levels. Comm. Simons referenced the letter from the neighbor that said the noise levels at the Humane Society were 83.7% decibels. Comm. Simons confirmed with staff that the process would be to contact Neighborhood Preservation to handle the code violation. **Trudi Ryan**, Planning Officer, commented that if the situation was not corrected that the City could hold revocation hearings.

### **Chair Hungerford opened the public hearing.**

**Joel Leineke**, with Wag Hotels, thanked staff for the report and said the application process went smoothly. He said they really are a hotel and not a kennel as this will be a first class facility. He said about \$2 million will be put into improvements to the building to bring it up to their standards. He said that they set out to address a level of care that is not currently present in the animal care industry by addressing the animal owner's concern for quality of care. He said the three primary concerns about this type of facility are noise, waste, and odor. He said they have learned a number of lessons from their Sacramento facility. He discussed the number of dogs and the boarding rooms. Mr. Leineke addressed the noise issue stating that this is a concrete building, that the roll up doors at this facility will primarily remain closed, and said that this building, which is completely enclosed, is different from the Humane Society. He said the noise levels were measured at the Sacramento facility during the full 2005 Christmas weekend when the surrounding ambient noise levels were low. He said the maximum noise level was 62 decibels and the inside noise for employees was at 81 to 83 decibels which is below the levels required by OSHA. Mr. Leineke addressed the odor concern and said that they have had comments from visitors, i.e. veterinary and animal staff from U.C. Davis, and they said that this is the nicest, cleanest facility they have encountered. He said they use a fresh air exchange system, bag the solid waste and dispose of it, and epoxy coat the

concrete floors so odors do not creep in. He said they are a good neighbor concerning traffic flow, as they are staffed 24 hours a day and most of the traffic arrives Friday evening and Sunday evening so they would not generally impact traffic flows in the neighborhood. He said they require the pets that stay with them to pass a personality profile and require that the animals need to be able to get along and play well with others. He explained the indoor exercise that the animals get and said that some owners request their dogs be walked which would be in the immediate neighborhood. He said he has talked to the neighbor, the Hoffman Co., to help address the traffic flow and pet walking concerns.

**Comm. Simons** asked the applicant to address kennel cough. Mr. Leineke said kennel cough is similar to the human cold and Wag Hotel requires all dogs to have their shots before they can stay at the hotel. Comm. Simons asked what the cost per day per dog would run. Mr. Leineke said that the pricing is still being determined, but in the Sacramento area the day rate runs between \$30 to \$65 per night. He said the basic level of care for pets at Wag Hotel is that they are fed and exercised twice a day, and if they are on any medications they provide that. He said that other kennels charge extra for the services that are basic at Wag Hotel. Comm. Simons confirmed with the applicant that the noise report from the Sacramento facility would be submitted for the record.

**Comm. Klein** asked where the roll up doors would be used. Mr. Leineke said the existing roll up doors would be used while they are building the facility and for moving things in and out. He said they do not intend to have them open during the normal course of business as they would not want to have pets escaping from the building.

**Chair Hungerford** asked how many employees are anticipated. He said there would probably be 12 to 15 employees working at a time with one or two working the graveyard shift. He said the graveyard staff does some cleaning and prepares for the morning feeding. Chair Hungerford asked about the air exchange system in the building. Mr. Leineke said there is a 100% air exchange, 12 times an hour, which is the standard health code for an animal care facility.

**Tom Haverstock** said he works in a business that is two doors down from the proposed site. He said his business selected this building for several reasons including the noise levels of the neighborhood, as the type of work they engage in is Intellectual Property Law, which requires an environment that needs minimal external distractions. He said the traffic noise in the area is a steady background drone, but barking is sharp, short repetitive sounds. He said they have a staff of about 20 people on site and their product is their time that they sell to their clients, which needs to be efficient and not distracted. He said if the neighboring noise were distracting, they would be unable to efficiently do their work. He referred to the letter that he submitted and said his company has enjoyed working in Sunnyvale and he hopes that continues. He said he has no objection to a kennel being brought into Sunnyvale and he has no issues with Mr. Leineke

or the Wag Hotel other than he feels that this is the wrong neighborhood for this type of use.

**Comm. Simons** confirmed with staff that the zoning in this area is industrial and that the noise level maximum allowed in industrial is 75 decibels at the lot line. Ms. Caruso said that an industrial user could move into this site as a matter of right and operate within the decibel standard without coming to a public hearing. Comm. Simons commented to Mr. Haverstock that industrial uses could exist on this site and by right of use could have noise levels up to the 75 decibel level. Mr. Haverstock said his concern is the type of noise, with the steady drone type, i.e. traffic versus the short, sharp, intermittent noises, i.e. barking. Mr. Haverstock said with possibly 400 animals in this facility, even though Wag Hotel has taken steps to mitigate the noise and odor, that there will still be noise and odor. Comm. Simons asked staff if the City has any smell requirements. Ms. Caruso said there are none specific in the code, but if smell became a nuisance there are provisions in the code to address the nuisance and that several departments would probably be involved to attempt to mitigate the situation, or possibly revoke the permit.

**Comm. Klein** discussed with Mr. Haverstock the existing types of uses surrounding his business. Mr. Haverstock said there has not been a noise issue with any of the current uses, including the veterinary clinic, but that the veterinary clinic does not keep more than 10 dogs overnight at a time. Comm. Klein confirmed with Mr. Haverstock that there is currently noise from the existing neighbors and that he would expect some additional noise from any new neighbor.

**Mary Wimmer**, the agent representing Mr. Leineke, spoke in support of the WAG Hotels proposal. She said when they started searching for a site they looked for a freestanding building so they would not have to worry about neighbors. She said this building is a good site as it is a freestanding concrete building, with one tenant on the right with space in between and no one on the left and it is in a good location with easy access. She said the 355 dogs and 50 cats would be the maximum and not the daily norm. Ms. Wimmer said she visited the facility in Sacramento, that it is as clean as a hospital, and like this proposal, is very impressive. She said that the dogs are contained inside the building, and the amenities and the way the animals are treated, along with the plans in place, address the issues. She said she thinks this use would be good on this site and would be a good addition for Sunnyvale and for Silicon Valley.

**Bill Nippes**, business owner of B2 Perfection and neighbor to the proposed site, said that when he moved into this facility that he was required to put in a lot of landscaping in as part of the conditions. He said he is concerned about the landscaping outside his business if the dogs being walked use his nice landscaping for elimination. He would like to know what the hotel will be doing for landscaping and what will be done to protect his landscaping.

**Chair Hungerford** asked Mr. Nippes what type of business he owns. Mr. Nippes said he owns a body and paint shop. Chair Hungerford asked if noise levels have ever been measured at the property line of his site. He said the City came by, but there has never been enough noise from the business to require decibel readings. Chair Hungerford asked if there were paint smells from the business. Mr. Nippes said that the odors are controlled with filters and they meet all the Air Resources Board requirements.

**Mr. Leineke** commented that in the Sacramento their facility shares a common wall with a neighbor and that they have been no complaints from the neighbor with regard to sound or odor. He said concerning odor, they bag the solids and flush the liquids down the sewer. He said they pride themselves on no odor inside or outside their facility. He said in perspective regarding sound that included in the appendix to the sound report, that the sound was tracked over a 24-hour period and that the passing of diesel trucks were louder decibels than barking dogs.

**Comm. Simons** asked staff about landscaping requirements, parking lot shading requirements and performance standards, and tree plantings. Ms. Caruso said currently in front of building there are healthy large mature trees. She said on the north property line there are some larger trees and some missing trees that will need to be replaced and that possibly in the back of the site some trees could be added. She said all of the ground cover on the site needs to be refurbished and that the landscaping requirements are for replacement of what used to be there and making what is there, healthy. Ms. Ryan referred to Attachment B, Condition of Approval 4 (COAs) that indicates that shade trees can be provided without loss of parking and said alternatively that the Commission could request that some of the parking spaces be removed to add more landscaping provided the parking does not go below the parking requirements.

**Comm. Klein** asked staff about the parking and if the 132 parking spaces were based on the use or on the square footage of the industrial building. Ms. Caruso said the parking is based on the square footage of the neighboring building and based on the same rate as a preschool, considering the number of attendees and of employees on site, the retail and the ancillary spaces. She said based on the applicant statement that their might be 15 employees working at one time then 107 parking spaces would be required leaving some space on the site for additional landscape pockets to be placed on the applicant's portion of the site. Comm. Klein referred to Attachment D page 1 and indicated some areas that might be appropriate for additional landscaping. Comm. Klein asked the applicant where Wag Hotel employees would be walking the dogs. Mr. Leineke said at the Sacramento facility the dogs are walked in front of and around the Wag Hotel facility. He said they also converted a loading dock into a "park" with Astroturf to allow the dogs to eliminate and then they would walk the dogs around the site. He said they could do something similar at this site. Mr. Leineke said

one of the comments in the staff report was a possible time limit on the how long the use permit would be allowed. He asked the Commission to not put a time limit on the use permit due to the sizeable improvement costs being done, as there would not be time to recoup their investment if the use permit was limited.

**Chair Hungerford closed the public hearing.**

**Comm. Simons moved Alternative 2 to adopt the Negative Declaration and approve the Use Permit with modified conditions: to modify COA 4.A, the third bullet, by adding the language “large species native trees as appropriate for the site”; to add a new bullet under COA 4.A that staff would increase the parking lot shading plan goal by removing existing parking to allow for more shading while maintaining the amount of required parking. Comm. Klein seconded.**

**Comm. Klein offered a friendly amendment that the new bullet proposed under COA 4.A by Comm. Simons also include that staff and the applicant work together to determine a location on the site for additional open space for an outdoor area for employees to take dogs and cats, the area to be maintained by the applicant. The friendly amendment was acceptable to the maker of the motion.**

**Comm. Simons** said his only concern is that whenever there is a problem or nuisance that is not measurable, i.e. smell, that he is hoping that staff would be working with the inconvenienced neighbors. He said the noise issues are measurable and he realizes there is a difference in intermittent and drone noises, but the City noise requirements do not deal with these differences. He said possibly a business owner has a recommendation for a study issue in the future to deal with these differences. He said he will be supporting of this motion.

**Comm. Klein** said he would be supporting the motion. He said the applicant is trying to improve the site by providing a quality pet care facility. He said the applicant is looking at and trying to deal with the issues and he is glad to see that the neighbors and the applicant are discussing the issues. He said he is a dog owner and possibly sometime his dog will get a chance to stay at the facility.

**Chair Hungerford** said he would not be supporting the motion. He said what is being voted on is a conditional use permit and that this use is not authorized in the zone as a permitted use, but can be allowed if it meets certain requirements. He referred to Attachment A.1 and said one of the requirements is “Policy N1.6: Safeguard industry’s ability to operate effectively by limiting the establishment of incompatible uses in industrial areas.” He said that given what has been heard at this hearing that it seems that site with up to 355 dogs and 50 cats is not a compatible use for this particular neighborhood.

**ACTION:** Comm. Simons made a motion on 2006-0357 to adopt the Negative Declaration and approve the Use Permit with modified conditions: to modify Condition of Approval (COA) 4.A, the third bullet, by adding the language “large species native trees as appropriate for the site”; to add a new bullet under COA 4.A that staff would increase the parking lot shading plan goal by removing existing parking to allow for more shading while maintaining the amount of required parking and to include that staff and the applicant work together to determine a location on the site for additional open space for an outdoor area for employees to take dogs and cats, the area to be maintained by the applicant. Comm. Klein seconded. Motion carried, 4-1, Chair Hungerford dissenting.

**APPEAL OPTIONS:** This item is appealable to City Council no later than June 6, 2006.